

## **1.00 GENERAL PROVISIONS**

### **1.01 Title, Creation and Adoption**

- 1.01.1 These Regulations shall be known as the Reese Creek Zoning District Regulations. It is adopted for the Reese Creek Zoning District, which was adopted on June 21, 2006.
- 1.01.2 These Regulations are adopted pursuant to Montana Code Annotated (MCA) §76-2-201 et. seq., in accordance with the Gallatin County Growth Policy (Growth Policy).
- 1.01.3 Copies of these Regulations and Zoning Map are on file for public inspection with the Office of the Gallatin County Clerk and Recorder and the Gallatin County Planning Department (Planning Department).

## **ADOPTION**

The Board of County Commission of Gallatin County adopted the Reese Creek Zoning District Regulations on June 21, 2006.

## **GALLATIN COUNTY COMMISSION**

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John Vincent, Chair

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William A. Murdock, Member

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Joe Skinner, Member

ATTEST:

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Shelley Vance, Gallatin County Clerk and Recorder

## 1.02 Application of District Regulations

- 1.02.1 Application. The requirements established by these Regulations are minimum regulations and apply uniformly to each class or kind of structure or land throughout the District. Regulation provisions shall be held to the minimum that protects and promotes the public health, safety and general welfare of the District.

These Regulations includes a *grandfather clause* in accordance with MCA §76-2-208, which allows existing non-conforming lots, structures, uses of land, and other characteristics which would otherwise be restricted or regulated under the terms of these Regulations, to continue as non-conforming. Non-conforming uses cannot be enlarged upon, expanded or extended, nor used as grounds for adding other structures or uses prohibited in the same District. Property owners of legally existing non-conforming structures may apply for a Conditional Use Permit (CUP, Section 5.04) to change, alter, enlarge, or expand the non-conforming uses pursuant to Section 5.02.

- 1.02.2 Zoning Regulation Conformance. All new construction is potentially subject to the provisions of these Regulations. Property owners are responsible for ensuring all activity within District boundaries conforms to these Regulations.
- 1.02.3 Exception. Under certain circumstances, the Zoning Enforcement Agent may exempt public utility pipelines, wells, or structures necessary for provision of services required for public health and safety, from provisions of these Regulations.
- 1.02.4 Vesting. An application made within the District is subject to the regulations in effect at that time.
- 1.02.5 Contradictions. If the requirements of these Regulations conflict with the requirements of any other lawfully adopted rules, regulations or covenants, the most restrictive (or higher standard) shall govern.
- 1.02.6 Interpretations. The Zoning Enforcement Agent, Code Compliance Specialist, Gallatin County Planning Board (Planning Board) and the Board of County Commission of Gallatin County (County Commission) can make official interpretations of the Reese Creek Zoning District zoning regulations, boundaries, and map. If questions arise concerning the appropriate classification of a particular use, or if the specific use is not listed, the County Commission shall determine the appropriate classification of that use.

In interpreting a use classification, the County Commission shall consider the matter in an office meeting and determine that the use:

1. Is compatible with the uses permitted in the District.
2. Is similar to one or more uses permitted in the District.
3. Will not adversely affect property in the neighborhood or the District.

4. Will not abrogate the intent of the Growth Policy or these Regulations.
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- 1.02.7 Natural Resources. These Regulations do not prevent the complete use, development, or recovery of any mineral (including an operation that mines sand and gravel or mixes concrete or batches asphalt), forest, or agricultural resource (MCA §76-2-209).

### **1.03 Intent and Purpose**

1.03.1 These Regulations have been made in accordance with the Growth Policy for the purpose of promoting the public health, safety, and general welfare. Additionally, in accordance with MCA §76-2-203, these Regulations are designed to:

1. Lessen congestion on the roads.
2. Secure safety from fire, panic, and other dangers.
3. Provide adequate air and light.
4. Prevent overcrowding of land.
5. Avoid undue concentration of population.
6. Facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements.
7. Give reasonable consideration to the character of the District and its peculiar suitability for particular uses with a view to conserving the value of buildings and encouraging the most appropriate use of land.

1.03.2 Additional purposes of these Regulations derived from Reese Creek property owners attending public visioning meetings in 2004, include the following:

1. Be proactive rather than reactive.
2. Preserve private property values and rights, including the ability to divide and sell private properties.
3. Recognize and provide protection for the unique concerns, requirements and advantages of supporting agriculture in our community.
4. Prevent overcrowding and undue population density.
5. Conserve and protect wildlife habitat.
6. Ensure high water quality and quantity standard.
7. Preserve scenic resources, views and provide adequate open space.
8. Prevent the spread of noxious weeds.
9. Address commercial development and its attendant traffic, noise, waste production, light emission and water resource consumption.
10. Preserve scenic night skies by controlling the use of exterior lights.
11. Maintain community diversity by planning for a variety of lot sizes.

12. Encourage careful consideration of lot size restrictions, cluster development, TDR's and other planning and zoning tools as a primary method of achieving the above stated purposes.
13. Acknowledgement that agricultural operation may be a nuisance. Much of the property within the Reese Creek Zoning District is used for agricultural production (as defined in MCA §76-2-902). Owners, residents and other users of adjacent property may be subjected to inconvenience, discomfort, and the possibility of injury to property and health arising from normal and accepted agricultural practices and operations, including but not limited to noise, odors, dust, smoke, the operation of machinery of any kind, including aircraft, the storage and disposal of manure, the application of fertilizers, soil amendments, herbicides and pesticides.

## **1.04 Invalidation and Severability**

- 1.04.1 If any section, subsection, subdivision, sentence, clause, paragraph, or phrase of these Regulations, or any attachments hereto, is for any reason held to be unconstitutional or void, such decision shall not affect the validity of the remaining portions of these Regulations to render the same operative and reasonably effective for carrying out the main purpose and intention of these Regulations.